

Serial No. 10/780,743

KAS-199

Amendment

Responsive to Final Office Action dated January 8, 2008

**REMARKS****Pending Claims**

Claims 9-10, 13-16, and 19 are pending. Claims 11, 12, 17 and 18 have been canceled without prejudice or disclaimer. Claims 9, 15, 16 and 19 have been amended. No new matter has been added.

**Information Disclosure Statement**

Applicants rely on the European Search Report dated December 7, 2004, a copy of which was submitted with the Information Disclosure Statement filed by applicants on October 7, 2004. The European Search Report provides the required statement of relevance, i.e. the reference was cited under category A: Technological Background. No English language translation of the reference is readily available to applicants. Applicants note MPEP 609.04(a)(III) concerning the requirement for a concise explanation of relevance for a non-English language reference, as follows:

Where the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office. This may be an explanation of which portion of the reference is particularly relevant, to which claims it applies, or merely an "X", "Y", or "A" indication on a search report.

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Applicants request the Examiner consider the reference as submitted in view of the relevance as stated in the Office Action from the European Patent Office, noting that applicants do not have a translation of the '613 reference readily available. See MPEP 609.04(a)(II).

**Drawings**

Claims 11, 12, 17 and 18 have been canceled without prejudice or disclaimer and without admitting to the propriety of the objection to the drawings. In view of the cancellation of these claims, the objected to the drawings is rendered moot.

**Claim Rejections Under 35 U.S.C. §112**

Claims 15-19 have been rejected under 35 U.S.C. §112, second paragraph. Applicants have canceled claims 17 and 18 without prejudice or disclaimer and have amended claims 16 and 19 to set forth a sample dispensing method in the preamble of the claim, which corresponds to the preamble of claim 15. Further, claim 16 has been amended to set forth that the sample probes are moved in the closed loop along a path that is substantially of one of the claimed shapes. For support of the amendment to claim 16, see page 15 of the Specification, lines 22-26, for example.

In view of the amendments made to claims 16 and 19, the rejection under 35 U.S.C. §112, second paragraph should be withdrawn.

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**Claim Rejections Under 35 U.S.C. §§102 and 103**

Claims 9-10, 13-16 and 19 are rejected under 35 U.S.C. §102(b) as being anticipated by Itoh, U.S. Patent No. 5,445,037. Claims 11-12 and 17-18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Itoh '037 in view of Babson et al, U.S. Patent No. 5,885,530.

Applicants have amended independent claims 9 and 15 to include that the controller or step of controlling, which controls the sample probes to reciprocally move between the sample suction position and the sample discharge position alternately so as to prevent the sample probes from colliding with each other, further sets forth that the sample in the sample container is discharged into a reaction cuvette by using the plurality of sample probes. Accordingly, by amending the independent claims, applicants have clarified the differences between the invention as claimed and Itoh.

In the embodiments of the present invention, sample probes are mounted on rails and the sample probes move along the rails from a sample sucking position to a sample discharge position. Further, the rails make a closed loop including the sample sucking position and the sample discharge position. Figures 5, 7 and 8 show examples of the loop shape path which the sample probes follow to reciprocally move between the sample suction position and the sample discharge position, alternately.

As one example of an embodiment of the invention, sample probe 15 is moved among three points, including the sample container 61, the sample discharge position 62 and a

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washing position 63 as shown in Figures 3 and 8, for example. Similarly, sample probe 16 moves among the sample container 61, the same sample discharge position 62 and a washing position 64. Accordingly, the rails make a closed loop that includes the sample sucking position and the sample discharge position. In Itoh, rails are arranged for the analyzer, however, the rails are in parallel with each other as shown in Fig. 1. A suction unit 33 is arranged on one rail and a suction unit 39 is arranged on the other rail. The suction units 33 and 39 access a parent sample container alternately to suck-in the parent sample. The suction unit 33 discharges the parent sample into one child sample container, and the suction unit 39 discharges the parent sample into another child sample container. Itoh does not disclose the rails being arranged in a closed loop, as required by claims 9 and 15.

According to Itoh, a parent sample is discharged to plural sample containers, however in the embodiments of the present invention, as explained with reference to Figs. 3 and 8, the probes 15 and 16 move from container 61 to a reaction cuvette at sample discharge position 62 following paths 65 and 66, respectively. In this manner, the sample in the sample container is discharged into the same reaction container at the sample discharge station using the plurality of sample probes. This enables a high-speed operation since a sample container can be sucked into a plurality of probes and discharged into a reaction cuvette at the sample discharge position. Itoh does not disclose or suggest these aspects of the claimed combination and therefore Itoh does not disclose or suggest the invention of pending claims 9-10, 13-16 and 19. Accordingly, the rejection under 35 U.S.C. §102(b) should be withdrawn.

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Babson has been applied to the rejection of claims 11-12 and 17-18. Each of these claims has been canceled without prejudice or disclaimer, thereby rendering the rejection under 35 U.S.C. §103(a) moot.

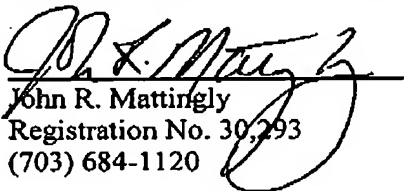
Applicants have considered the remainder of the art of record, and respectfully assert that the pending claims are patentable over Itoh whether or not the reference is further considered in combination with Babson or any of the other art of record.

**Conclusion**

In view of the foregoing, Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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Date: May 8, 2008